

24 May 1979

CIVIL SERVICE REFORM ACT OF 1978

APPROACHES BY EXEMPTED AGENCIES

NATIONAL SECURITY AGENCY

1. Source of Information

Meeting and discussion at NSA on 24 May 1979 by [REDACTED] STATINTL

STATINTL DD/Pers-P&C (CIA) with Mr. [REDACTED] D/Pers, NSA; Mr. [REDACTED] STATINTL

STATINTL [REDACTED] Deputy Director of Civilian Personnel, NSA; and Mr. [REDACTED] STATINTL

Personnel Officer, Civilian Personnel Office, NSA.

2. Summary

NSA, like CIA, is exempt from the major provisions of the Civil Service Reform Act of 1978. NSA, however, requires new legislation for the Director of NSA to institute any provisions of the CSRA from which NSA is exempted or excluded under the Act. In this regard NSA has initiated a legislative proposal to authorize the Director of NSA to create a "Senior Cryptologic Executive Service" within NSA which would be similar to the Senior Executive Service under the Civil Service Reform Act.

Since passage of the Act in 1978, the Personnel Office, NSA has kept abreast of the Office of Personnel Management's (OPM) literature on the provisions of the Act and NSA personnel representatives have actively participated in the conferences and workshops offered by OPM.

In addition, NSA has established a task group, composed of personnel and line component managers to study the Senior Executive Service approach and the development of a Performance Appraisal System tailored

to support the specific requirements of a Senior Executive Service within NSA. On the basis of these studies the Director of NSA decided to initiate the legislative proposal to authorize NSA to institute a "Senior Cryptologic Executive Service" within his agency.

The NSA bill is currently under review by the Office of Management and Budget. OMB, however, has drafted a new bill which would propose a "Senior Intelligence Executive Service" which would include authority for the Directors of NSA, DIA and Central Intelligence Agency to establish independent Senior Executive Service systems patterned after the provisions of the Civil Service Reform Act program.

3. Other Considerations

The NSA representatives stated that at the present time at least, NSA was concentrating their efforts as regards the CSRA only on the adoption of a Senior Executive Service and it's companion Performance Appraisal System.

18 May 1979

CIVIL SERVICE REFORM ACT OF 1978
APPROACHES BY EXEMPTED AGENCIES

DEFENSE INTELLIGENCE AGENCY

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SOURCE OF INFORMATION: Meeting and discussion on 18 May 1979 by [REDACTED] with Mr. [REDACTED] Director, Civilian Personnel, DIA; and Mr. [REDACTED] Jr., Special Assistant for Civilian Personnel Division, DIA.

Summary

STATINTL

Messrs. [REDACTED] stated that their office (Civilian Personnel Division, DIA) has been tasked with reviewing the CSRA and are participating in the briefing sessions offered by OPM on the various provisions of the Act. They stated, however, that since DIA is a subordinate element of the Department of Defense they (DIA) are subject to DOD policy decisions relative to the CSRA. The following is a summary of the status of their views and/or actions to date:

A. Title I - Merit Principles

DIA is exempted under the Act from Title I but have no problems with the substance of the "principles" and "prohibited acts" since most of these are already incorporated into DIA regulations.

B. Title II - Civil Service Functions Performance Appraisal Adverse Actions

DIA is exempted under the Act from the Performance Appraisal provisions of Title II. At this time, DIA does not anticipate making any changes to their current performance appraisal system. They expect, however, that some modifications may be required to meet OPM's specifica-

tions for the Merit Pay system for GS 13-15 supervisors and managers (DIA is not exempt from this provision of law) and should DOD sponsor legislation for adoption of some form of the Senior Executive Service for DIA, modifications would be required to meet the special requirements of that program.

C. Title III - Staffing

The DIA representative confirmed that DIA has excepted appointment authority which permits recruitment of personnel without regard to civil service competitive status. The dual pay limitations applicable to certain retired military personnel under Title III are applicable to all Federal agencies.

D. Title IV - Senior Executive Service

DIA is exempt from the SES provisions of the Act. They are studying the SES and watching how other covered agencies are developing their programs with the view to determine whether some form of adaptation of the SES approach might be advantageous. DIA will require new statutory authority to adopt an SES system since their current legislative authorities are insufficient. OMB has recently initiated draft legislation which would provide NSA, DIA and CIA with the authority to establish independent Senior Intelligence Executive Services.

E. Title V - Merit Pay for GS 13-15 Supervisors and Managers

DIA is not exempt from Title V provisions and are fully covered under the Act. Under the Act covered agencies have until 1 October 1981 to institute the Merit Pay system. At this time, DIA has not developed their implementation plans but are monitoring how other covered agencies are proceeding. An internal task force to study and

develop a program is being considered and will include personnel representatives and line managers. They are aware that certain modifications to DIA's current performance appraisal system will have to be instituted to meet the OPM requirements for the evaluation of GS 13-15 supervisors and managers covered under the Merit Pay program.

F. Title VI - Research Programs and Demonstration Projects

DIA is excluded from this title. The DIA representatives had no particular comments on its application.

G. Title VII - Federal Service Labor-Management Relations

DIA is not exempted from this title although they were excluded under the previous Presidential Executive Order. DOD plans to request an Executive Order to restore DIA's exemption from the Act.

H. Title VIII - Grade and Pay Retention

DIA is not exempted from this title and must comply with its provisions.

I. Title IX - Miscellaneous

This title is the final title of the Reform Act and contains miscellaneous provisions to clarify conformance with other segments of the United States Code (Powers of the President, etc.).

CIVIL SERVICE REFORM ACT OF 1978

CIA'S APPROACH

1. GENERAL

While certain provisions of the Civil Service Reform Act of 1978 are applicable to all Executive Branch agencies, CIA is specifically exempted from most major provisions of the Act.

The basis for CIA's request for these exemptions was based primarily on the protection of intelligence sources and methods rather than objections to the principles and concepts of the provisions of the Act itself.

The Director of Central Intelligence, under authorities contained in the National Security Act of 1947 and the CIA Act of 1949, can elect to adopt elements of the Act for application within CIA.

2. PROVISIONS OF THE ACT AND IMPLICATIONS FOR CIA

A. Title I - Merit System Principles and Prohibited Personnel Practices

° Merit Principles

Provisions of Chapter 23, Title I, state that all agencies (including exempt) should follow the merit principles with the proviso that "no provision of this chapter shall be construed to impair the authorities and responsibilities set forth in Section 102 of the National Security Act of 1947 or the Central Intelligence Agency Act of 1949 . . ."

The CSRA merit principles are similar to current principles contained in present CIA regulations.

° Prohibited Personnel Practices

CIA is specifically exempted from statutory application of the Prohibited Personnel Practices provisions of the Act. The Agency's current internal regulations include essentially the same prohibitions as cited under the Act.

B. Title II - Civil Service Functions
Performance Appraisal System
Adverse Actions

° Civil Service Functions

CIA can be affected under the "Civil Service Functions" section of this title when "whistleblowers" make allegations of wrongdoing to the Special Counsel of the Merit System Protection Board. The law requires that upon receipt of information involving foreign intelligence or counterintelligence the Special Counsel shall transmit such information to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. If such allegations involve CIA, it is assumed that the Congressional Intelligence Committees would conduct investigations.

° Performance Appraisal and Adverse Actions

CIA is exempt from the Performance Appraisal and Adverse Actions provisions of the Act.

CIA's current Performance Appraisal System meets the requirements proposed under the Act for the general governmental system.

C. Title III - Staffing

° Dual Pay Limitations for Retired Members of the Uniformed Services

CIA is covered under this provision of the Act and is applying the new rules.

° Minority Recruitment Program to Eliminate Underrepresentation of Minorities within Grade Groups or Occupational Services

CIA is exempt under provisions of the Act but will be obligated to comply with the Equal Employment Opportunity Commission's requirements in this regard if they use the EEO Act of 1972 as their statutory authority in CIA's case.

° Temporary Employment Limitation

CIA and all other Executive Branch agencies are covered by this provision which limits the numbers of "on board" employees on 30 September 1979, 1980 and 1981 not to exceed the number "on board" as of 30 September 1977.

D. Title IV - Senior Executive Service

CIA is exempt from Title IV but is placing particular emphasis on the study of the Senior Executive Service concept for possible adaptation within CIA under the DCI's current statutory authority.

The CIA Office of Personnel has actively participated in the meetings and workshops held by the Office of Personnel Management (OPM) and has concluded that conceptually the principles and theory of the SES are sound and offer opportunities for improving the effectiveness of CIA's Executive Management System.

As a consequence of these studies the Agency has established a "task group" composed of Office of Personnel representatives and line component managers to undertake indepth study of all facets of the SES approach and the development of a program structure for DCI consideration.

Among the approaches under consideration is the possible adoption of a basic program for senior managers and a parallel program

for non-managerial senior analysts and operations officers.

The task group will also address the Agency's personnel appraisal system to determine modifications that may be necessary to establish a special performance appraisal system for SES participants.

E. Title V - Merit Pay for GS 13-15 Supervisors and Managers

CIA is exempt from Title V but has been studying the Merit Pay concept and the possible advantages and disadvantages of adoption of such an approach within CIA.

F. Title VI - Research, Demonstration and Other Projects

All Executive Branch agencies are free to voluntarily participate in OPM projects under this Title.

G. Title VII - Labor-Management Relations

CIA is exempt from Title VII.

H. Title VIII - Grade and Pay Retention

CIA is exempt from Title VIII.

I. Title IX - Miscellaneous

No applications to CIA.